



Agenda Abstract

BOARD OF COMMISSIONERS

Meeting Date: Dec. 12, 2022
Department: Planning and Economic Development
Agenda Section: Regular
Public hearing: Yes
Date of public hearing: Oct. 20, 2022

PRESENTER/INFORMATION CONTACT

Planning and Economic Development Manager Shannan Campbell

ITEM TO BE CONSIDERED

Subject: General Use Rezoning- Owls Woods (1700 NC 86 South, OC PIN 9874429362); Limited Office to High Intensity Commercial

Attachments:

1. Consistency Statement
2. Rezoning Ordinance
3. Rezoning Application Materials & Maps

Summary:

The applicant parcel is owned by Owls Wood Development LLC. The owner pursued rezoning to Multi-Family (MF) and a Future Land Use Plan amendment at the April 2022 Joint Public Hearing that was denied 3-2 at the June 13, 2022 town board meeting. The applicant parcel is at an intersection with varying other zoning districts adjacent to it. The applicant submitted a new rezoning application dated Aug. 18, 2022 requesting to rezone the parcel from LO (limited office) to HIC (High Intensity Commercial).

The request is for a general use rezoning— meaning a range of uses are permitted by right. This is a legislative decision for the board – meaning the members can take a wide range of information into consideration and testimony may be in writing and does not need to be sworn. The board has broad discretion in determining whether to approve this request. No statements by the applicant as to potential use of the property are binding on the applicant or the town. For this reason, the town requires no development plans from applicants seeking rezoning to a general-purpose district.

GENERAL STANDARDS/FINDINGS OF FACT:

Before amending this Ordinance or the Official Zoning Map, the Town Board must find, after conducting the process below, that the request is not inconsistent with the adopted Comprehensive Plan for the Town of Hillsborough.

Amending the Official Zoning Map (Rezoning) is a matter committed to the legislative discretion of the Town Board. In determining whether to adopt a proposed amendment, the Town Board shall consider and weigh the relevance of the following factors:

- (a) The extent to which the proposed amendment is consistent with all applicable Town-adopted plans;
- (b) The extent to which there are changed conditions that require an amendment;
- (c) The extent to which the proposed amendment addresses a demonstrated community need;

- (d) The extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and is the appropriate zoning district for the land;
- (e) The extent to which the proposed amendment would result in a logical and orderly development pattern, or deviate from logical and orderly development patterns;
- (f) The extent to which the proposed amendment would encourage premature development;
- (g) The extent to which the proposed amendment would result in strip or ribbon commercial development;
- (h) The extent to which the proposed amendment would result in the creation of an isolated zoning district unrelated to or incompatible with adjacent and surrounding zoning districts;
- (i) The extent to which the proposed amendment would result in significant adverse impacts on the property values of surrounding lands; and
- (j) The extent to which the proposed amendment would result in significantly adverse environmental impacts, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

October Joint Public Hearing Minutes:

B. General Use Rezoning: 1700 N.C. 86 South — To rezone the Owl's Woods tract from Limited Office to High Intensity Commercial (OC PIN 9874429362)

Campbell presented the staff report. She said the board members saw a different rezoning request for the same parcel earlier this year. She said the applicant proposes rezoning the approximately 15-acre property from Limited Office to High Intensity Commercial. Campbell said the general use rezoning includes no development plan, and any use allowed in the High Intensity Commercial zoning district would be allowed by right. Johnston called the board members' attention to details on pages 22 and 23 of the agenda packet.

Johnston invited the applicant to speak.

William Wirt of Summit Design and Engineering spoke on behalf of the applicant. Wirt summarized the application. He said rezoning the property to High Intensity Commercial would allow uses to be built there that the town has expressed interest in seeing, such as restaurants, flex space and healthcare. Wirt displayed a map of the area, pointing out the site's location and a creek and sewer easement running through the property. He noted the zoning of surrounding areas. Wirt displayed an older conceptual site rendering, acknowledging it shows a more intense development plan than is practical given the site's topographical challenges. He said the concept illustrates several key points that still could apply to the site, including building layouts and a thoroughfare running through the site. He said the site's topography, including a creek and sewer buffers, would preserve its natural benefits and diversify the site. Wirt displayed a current zoning map. He said the uses allowed in the High Intensity Commercial zoning district would fit well with uses surrounding the area and with the town's Comprehensive Plan, which calls for retail services on the site.

Wirt summarized the rezoning would align the property with the town's Future Land Use Plan and with the Hillsborough Vision 2030; would be in line with the surrounding area's development patterns and zoning; would provide services the town desires; and would add to surrounding property values. He added the site's topographical challenges would prevent sprawl on the site and preserve the site's natural benefits.

Ferguson thanked Wirt and expressed excitement about the proposed project.

Planning Board member Saru Salvi expressed concern about traffic the proposed project could generate. When asked, Campbell said traffic would be evaluated after the applicant submitted a site plan. Campbell said the

matter before the board members tonight was a high-level land use question about whether the requested uses are appropriate for the site.

Johnston observed the site's topography would require significant grading. Wirt agreed and said the displayed concept plan illustrated the maximum possible development for the site. When asked, Wirt said the amount of development shown on the concept plan is not feasible, adding it was drawn some time ago. Wirt said he showed the plan to illustrate a few key points. When asked, he explained rezoning to the High Intensity Commercial zoning district would allow more diverse services, make the property more marketable and align it with similar uses in the surrounding area.

When asked, Campbell confirmed a preliminary study indicated a traffic circle or another traffic control device might be needed at the nearby intersection of U.S. 70A and N.C. 86. She said there are not yet plans developed for the traffic circle.

When asked, Campbell clarified that a previous applicant, who proposed rezoning the property to the Multi-Family zoning district, was considering building a private greenway trail system on the site.

When asked, Wirt described possible differences between the displayed concept plan and what feasibly could be built. He said most buildings would move closer to N.C. 86, and the thoroughfare probably would not be as deep.

Salvi asked if the developers could preserve trees and greenery along U.S. 70A to screen the development. Wirt agreed and noted the town has landscape buffer requirements that require that.

The board members had no further questions. Johnston asked for comment from members of the public.

Leland Little addressed the board members, noting he owns the property across the street from the site. Little said he generally was in favor of rezoning the property for the purposes of development. He said he would like to hear the mind of the town board regarding its vision for the property and this area.

Weaver summarized there was a general hope among town board members that the parcel would be developed commercially. She noted the owner had been having trouble developing the property commercially, and she described the previous application earlier this year regarding rezoning the property to the Multi-Family zoning district. Weaver said the town board ultimately denied that request. Weaver said her sense is the applicants are requesting the current rezoning because the higher-intensity zoning district would make the property more marketable. Bell and Ferguson agreed. Ferguson said during the previous application flex space was identified as a potential use for the site.

Little noted the allowed uses for the High Intensity Commercial zoning district include single-family dwellings and accessory dwellings. Campbell clarified only one single-family dwelling and accessory dwelling could be built by right. She said a developer would have to go through the special use permit process to subdivide and build a housing development, for example. Campbell clarified the town allows single-family dwellings in almost all zoning districts because many districts have pre-existing single-family dwellings.

Miller addressed the board, noting he lives in the nearby Fiori Hill neighborhood. He expressed concern with the intensity of the uses allowed in the High Intensity Commercial zoning district. He said noise and light pollution could result from those uses, such as from an all-night gas station. Miller noted any use allowed for the High Intensity Commercial zoning district would be allowed by right. He pointed out two nearby residential areas, Fiori Hill and the Eno Haven Apartments. He said a thoroughfare connecting to U.S. 70A could be problematic given the area's terrain. Miller noted the property could be subdivided, with each new owner having access to the full list of High Intensity Commercial uses.

Mark O'Neal of Pickett Sprouse Real Estate addressed the board members. O'Neal said during the previous application to rezone this property the applicants learned the Planning Board members saw the lot's existing zoning district as limiting. He said the applicants are trying to make the property more marketable. O'Neal said the requested zoning and its uses would be consistent with surrounding properties' zoning districts and uses. He said the town's Comprehensive Plan also calls for retail services in this area.

When asked, applicant Mark Trustin declined to speak and said O'Neal and Wirt had done a good job representing the application.

Matt Epstein addressed the board members, noting he lives in the Fiori Hill neighborhood. He said retail is important to Hillsborough, but he expressed concern the rezoning would be too extreme a step. Epstein said the board members should consider every possible use that would be allowed by right on the rezoned property. He said if the board members are comfortable with the most intense allowed use, and that use fits the town's Comprehensive Plan for the area, the rezoning should proceed. However, if the most intense allowed use does not seem like a good idea for that area, he said the board members should not allow the rezoning. Epstein said rezonings should only proceed to correct a zoning mistake or if the conditions for the original zoning have changed. He questioned the applicant's argument that rezoning the property would align it with surrounding uses, which he said are not clearly consistent with the uses allowed in High Intensity Commercial zoning districts. Epstein said a smaller rezoning step could be taken to allow less-intense development than the requested zoning district.

There were no further comments for this item.

November Planning Board Meeting:

At the November Planning Board meeting there was discussion amongst the board members as to the appropriateness of all the uses permitted in the HIC zoning district. Member Salvi had concerns about the intensity and density of what could potentially go at this busy intersection. The Planning Board voted 6-1 to recommend approval.

Financial impacts:

None.

Staff recommendation and comments:

None.

Action requested:

Approve or deny the request for rezoning.